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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 26.04.2016

+ **MAC.APP. 206/2013**

PREMWATI & ANR.

..... Appellants

Through: Mr. Anshuman Bal, Advocate

versus

CHOLAMANDALAM GENERAL INSURANCE

CO. LTD. & ORS.

..... Respondents

Through: Ms. Suman Bagga, Advocate for R-1

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. Sabita @ Simmi, aged 22 years, an unmarried girl, died as a result of the injuries suffered in a motor vehicular accident that occurred on 25.11.2010 involving negligent driving of a car bearing registration No.HR 01L-2613 (offending vehicle) admittedly insured against third party risk with the first respondent (insurer), for the period in question.

2. Her parents (first and second petitioners) preferred an accident claim case (M.A.C.T case no.411/2010) under Sections 166 & 140 of Motor Vehicles Act, 1988 (M.V. Act) on 16.12.2010 impleading the insurer, driver and owner of the offending vehicle as parties.

3. The Tribunal, by judgment dated 01.12.2012, upheld the case of the claimants (first and second petitioners) about death having been caused due to negligent driving of the driver and awarded compensation in the sum of ₹4,35,670/- with interest at the rate of 7.5% p.a. from the date of filing of the petition till realization, the said amount being inclusive of ₹10,000/- each towards loss of love and affection and loss to estate and ₹5,000/- towards funeral expenses.

4. The claimants by the appeal at hand press for enhancement in the non pecuniary damages and also in the rate of interest.

5. Following the view taken in *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54 and *Shashikala V. Gangalakshamma* (2015) 9 SCC 150, it is found that the awards for non pecuniary damages are inadequate and, therefore, the same are enhanced. An amount of ₹1 Lakh is awarded towards loss of love and affection and ₹25,000/- each towards funeral expense and loss to estate.

6. Following the consistent view taken by this court, the rate of interest is increased to 9% p.a. from the date of filing of the petition till realization. [see judgment dated 22.02.2016 in MAC.APP. 165/2011 *Oriental Insurance Co Ltd v. Sangeeta Devi & Ors.*].

7. The award is modified as above.

8. The insurance company is directed to satisfy the enhanced award by requisite deposit with the Tribunal, within 30 days from today, whereupon the same shall be released to the claimants.

9. The appeal is disposed of in the aforesaid terms.

R.K. GAUBA
(JUDGE)

APRIL 26, 2016
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